



DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 30-2011]

Foreign-Trade Zone 141 — Rochester, New York
Application for Manufacturing Authority
Firth Rixson, Inc. d/b/a Firth Rixson Monroe
Comment Period on Revised Preliminary Recommendation

On April 29, 2011, an application was submitted by Monroe County, New York, grantee of FTZ 141, requesting authority on behalf of Firth Rixson, Inc. d/b/a Firth Rixson Monroe (Firth Rixson) to manufacture aircraft turbine components under FTZ procedures within FTZ 141 (76 FR 25300-25301, 5/4/2011). In January 2012, the applicant was notified of the FTZ Board staff examiner's preliminary recommendation for approval of the request with a restriction requiring that foreign-origin titanium be admitted to Firth Rixson's FTZ operation in privileged foreign status (19 CFR §146.63) (absent that restriction, at the time that U.S. customs entry is made on aircraft turbine components produced in the FTZ incorporating foreign-sourced titanium, Firth Rixson would be able to apply to the foreign-sourced titanium the lower duty rates applicable to aircraft turbine components – an “inverted tariff” benefit). In June 2012, the applicant submitted new evidence and information in response to the factors considered in the preliminary recommendation. Firth Rixson's June 2012 submission was the subject of a *Federal Register* notice (77 FR 43572-43573, 7/25/2012) inviting public comment. Firth Rixson subsequently made a rebuttal submission in response to comments received during the comment period.

After a full review of the evidence and information on the record to date (including all submissions by the applicant and other parties) in the context of the applicable criteria from

the FTZ Board's regulations (15 CFR Part 400), the examiner issued a revised preliminary

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recommendation on December 28, 2012. The examiner's revised preliminary recommendation is to approve the requested authority – *i.e.*, to allow unrestricted FTZ benefits on foreign titanium used in production for the U.S. market and export – for a period of five years. Any authority beyond the five year period would require an additional application to the FTZ Board.

The examiner's revised preliminary recommendation also includes a requirement for Firth Rixson to provide data on an ongoing basis to enable the FTZ Staff to conduct enhanced monitoring of the actual impact of Firth Rixson's FTZ use. If there were to be evidence of negative effects resulting from the company's FTZ use, the FTZ Board could review the activity and determine whether negative public interest impacts existed that warranted the imposition of a prohibition or restriction (see 15 CFR §400.49).

The examiner's analysis indicates that allowing unrestricted FTZ benefits on foreign titanium used in production for the U.S. market and export for an initial five-year period should result in significant public benefits – such as maintained or increased U.S. employment – without negative economic effects (*e.g.*, would not result in increased imports of titanium alloy that otherwise would not have occurred). In particular, the revised preliminary recommendation is based on an assessment that the requested authority is unlikely to have a negative impact on related domestic industry – such as reduced purchases of U.S.-produced titanium products – because key customers' contracts with Firth Rixson involve “directed buys” wherein the customer dictates the specific supplier of the titanium to be used by Firth Rixson in the production of its aircraft turbine components for the customer's use. “Directed buy” contracts enable the customer to retain tight control over the specifications and quality of

the titanium used to produce components for that customer. Key “directed buy” contractual

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provisions include a designated source (*i.e.*, the actual supplier of the titanium alloy to be processed by Firth Rixson) and a transaction price(s) (*i.e.*, unit price(s) for titanium alloy pre-established by negotiations solely involving Firth Rixson’s customer and the producer of the titanium alloy selected by that customer). Under longstanding “directed buy” practices within the aerospace industry, Firth Rixson does not control the sourcing of titanium alloy and the price of that material for key contracts. What Firth Rixson does control in that situation is whether the production will occur at a company facility in the United States or abroad.

The examiner’s analysis indicates that, given that certain “directed buy” contracts mandate the use of titanium from a specific foreign producer, the competitiveness of Firth Rixson’s Rochester plant would be improved (relative to Firth Rixson’s plants offshore and to competitors’ plants abroad) through unrestricted FTZ benefits on its processing of foreign-origin titanium. (In that situation, because Firth Rixson’s potential “directed buy” customer is seeking a company to process the specific, foreign-produced titanium already selected by the customer, there should be no impact on U.S. titanium producers.) In the absence of FTZ benefits, Firth Rixson would be more likely to need to conduct significant portions of its activity at one of its overseas plants in order to secure or retain a contract to process the specific foreign-origin titanium mandated by a potential customer. This would ultimately produce negative effects on employment at the U.S. plant and potentially on the plant’s overall viability. FTZ authority should reduce the apparent risk of loss of that activity (and associated employment) to foreign locations. Further, helping to maintain Firth Rixson’s production and employment at the Monroe County plant through FTZ authority would likely promote positive secondary economic effects (particularly through maintained or increased purchases of

titanium alloy from U.S. mills for contracts that do not mandate the use of specific, foreign-

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produced titanium alloy).

Public comment is invited through *[Insert 30 days from the date of publication]*, on the revised preliminary recommendation and its underlying bases. Rebuttal comments may be submitted during the subsequent 15-day period, until *[Insert 45 days from the date of publication]*. Submissions shall be addressed to the Board's Executive Secretary at the following address: Office of the Executive Secretary, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230-0002.

For further information, contact Pierre Duy at Pierre.Duy@trade.gov or (202) 482-1378.

Dated: January 9, 2013

Andrew McGilvray
Executive Secretary

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